

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GREATER ST. LOUIS CONSTRUCTION)	
LABORERS WELFARE FUND, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. 4:06-CV-560 (CEJ)
)	
LINDA'S CLEANING SERVICE, INC.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion to compel an accounting, following an entry of default against defendant.

Plaintiffs bring this action pursuant to the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §§ 1001 et seq., and the Labor Relations Management Act (LMRA), 29 U.S.C. §§ 141 et seq. Plaintiffs are four employee benefit plans and their trustees (the plans) and Local Union Nos. 42-53-110, the Laborers International Union of North America, AFL-CIO, and the AFL-CIO (the unions). Plaintiffs seek an order compelling defendant to submit to an audit for the period between August 27, 2004, and the present.

Plaintiffs aver through the affidavit of Bernard Difani, accountant for the plans, that defendant Linda's Cleaning Services, Inc., failed to make timely contributions to the plans as required under the terms of a collective bargaining agreement entered into on August 27, 2004. Defendant did not answer plaintiffs' complaint

or enter an appearance in this matter and, on May 24, 2006, the Clerk of Court entered default against the defendant.

Plaintiffs move for an order compelling an accounting pursuant to Rule 55(b)(2), Fed. R. Civ. P., in order to determine the amount of damages. Plaintiffs have established that defendant is a party to a collective bargaining agreement with the unions and thus was obligated to make contributions to the plaintiff funds. The agreement authorizes plaintiffs to examine the financial records to ascertain whether the required contributions were made. The only means by which plaintiffs can determine the amount owed is through such financial compliance examination. Plaintiffs' request for an accounting will be granted.

Plaintiffs also ask the Court to enter partial default judgment in the amount of \$3,298.30 for attorneys fees and costs. Plaintiffs have not submitted a billing record and, in the absence of supporting documentation, the Court cannot determine whether the requested amounts are reasonable. In addition, the Court believes that efficiency is better served by entering a single judgment on damages and properly documented attorneys fees at the conclusion of the accounting.


Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to compel an accounting [#7] is **granted**.

IT IS FURTHER ORDERED that defendant Linda's Cleaning Services, Inc., is hereby ordered to provide to plaintiffs, **not later than July 10, 2006**, all of the books, ledgers, payroll

records, bank statements and other documents reflecting or pertaining to all hours worked by and wages paid to employees of Linda's Cleaning Services, Inc., since August 27, 2004.

IT IS FURTHER ORDERED that plaintiffs' motion for partial default judgment is **denied without prejudice**.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 8th day of June, 2006.